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OFFICE OF PETITIONS

In re Application of :
Joseph C. Hurlburt :
Application No.: 10/729896 :
Filing or 371(c) Date: 12/08/2003 :
Title of Invention: TRAILER HAVING :
TILT AND DUMP FUNCTIONS : **ON PETITION**

This is a decision on the "Petition to Withdraw Holding of Abandonment (37CFR 1.181(a)) and Petition to Revive an Abandoned Application (Under 37 CFR 1.137(b))," filed March 28, 2008.

This Petition under 37 CFR 1.181(a) is hereby **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 12, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed February 26, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on April 12, 2006. Applicant also avers that prosecution of the application proceeded thereafter, including the mailing by this Office of a non-final Office action on January 30, 2007, and response thereto on April 26, 2007.

Review of Office records

A review of Office records also reveals that Applicant is correct¹.

¹ Office records reveal that the Examiner noted in an Interview Summary mailed July 21, 2006 that the finality of the previous Office action (mailed January 12, 2006), was withdrawn, and that a new Office action (mailed January 30, 2007), would be forthcoming.


Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee is due. A refund of the fee for the petition under 37 CFR 1.137(b) has been scheduled via Treasury Check.

The application will be referred to Technology Center Art Unit 3652 for continued processing consistent with this Decision².

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions

² Applicant's asserts in the petition that the Examiner approved the Amendment filed April 26, 2007 and forwarded the application for allowance; however, the application file does not support this assertion, and Applicant correctly notes that no Notice of Allowance was mailed in this Application.